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VIA EMAIL

Mr. Paul Miele, Trustee
Trust Created Under the Last Will and Testament of Angelo J. Miele
2231 Millburn Ave.
Maplewood, New Jersey 07040

Damon R. Sedita, Esq.
Sedita, Campisano & Campisano, LLC
55 Lane Road, Suite 170
Fairfield, New Jersey 07004

Re: Rolling Knolls Landfill Superfund Site

Gentlemen:

This office represents Chevron Environmental Management Company, for itself and on behalf of Kewanee Industries Inc., Nokia of America Corporation (f/k/a Alcatel-Lucent Technologies Inc., and Novartis Pharmaceuticals Corporation (the "Group"). As you are aware, the Group is performing the Remedial Investigation and Feasibility Study for the Rolling Knolls Landfill Superfund Site in Chatham Township, New Jersey (the "Site") pursuant to a September 2005 Administrative Settlement Agreement and Order on Consent with the United States Environmental Protection Agency ("USEPA").

It has come to our attention that your client, the Trust Created under the Last Will and Testament of Angelo J. Miele (the "Miele Trust" or "Trust") entered into a Memorandum of Understanding By And Among The Miele Trust, Great Swamp National Wildlife Refuge ("FWS"), Township Of Chatham And Great Swamp Watershed Association ("GSWA") Regarding the Rolling Knolls Landfill Superfund Site dated July 2021 (the "MOU"). The purpose of this letter is to advise you that the MOU violates both the letter and spirit of the Declaration of Restrictive Covenant dated September 12, 2019 and filed with the Morris County Clerk's Office on November 15, 2019 in Book 23656, Page 1199 (the "Restrictive Covenant") and the Miele Trust's obligations under the Settlement Agreement and Release with the Group dated October 2019 (the "Settlement Agreement").

1. The Restrictive Covenant.

The Restrictive Covenant explicitly restricts the future use and development of the approximately 135 acres of the Site owned by the Miele Trust (the “Property”). Indeed, the Restrictive Covenant specifically states, “There shall be *no development of the Subject Property for any purpose...*” and thus, prohibits any development that would be required to use the Property for “year-round passive public recreation” as agreed to by the Miele Trust under the MOU. The primary purpose of the MOU, thus, directly contravenes the Restrictive Covenant.

Moreover, although the Restrictive Covenant requires the Property to be preserved as open space, it does not allow that open space to be made available to the public. To the contrary, the Restrictive Covenant specifically provides that it does not “creat[e] any rights in the general public.” Accordingly, by agreeing in the MOU to “engage in negotiations to achieve use of the private portion of the Site dedicated to open space for ... year-round passive public recreation,” the Miele Trust has anticipatorily breached the Restrictive Covenant.

2. The Settlement Agreement

Paragraph 3.d. of the Settlement Agreement requires the Trust “*to prohibit any person or entity from using the Property...*” This provision is fully consistent with the Restrictive Covenant’s prohibition of “any development.” It also confirms that the term “open space” in the Restrictive Covenant means that the Property should be left in its current, idle state, subject only to the implementation of the USEPA-selected remedy. By entering into the MOU, which supports using the Property for “passive public recreation...including for year-round recreational activities such as hiking, fishing, birding, nature study and other similar activities,” the Trust has breached the express terms of the Settlement Agreement, and is actively encouraging conduct on the Property that it is obligated to prohibit.

3. Conclusion

The central purpose of the MOU is to allow uses of the Property that do, in fact, violate both the Restrictive Covenant and the Settlement Agreement. We have no doubt that FWS and the GSWA will argue that the USEPA should consider the permitted uses under the MOU in selecting a remedy for the Site. These are the very arguments that the Group sought to eliminate by entering into the Settlement Agreement. Accordingly, please consider this letter as notice pursuant to Section 3(k) of the Settlement Agreement that by entering into the MOU, the Trust has breached that Agreement. The gratuitous statement in the MOU that nothing in the MOU obligates the Miele Trust to violate the Restrictive Covenant or the Settlement Agreement does not cure this breach.

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Mr. Paul Miele

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In accordance with Section 3(k), the Trust has fifteen (15) days to cure the breach, which we invite it to do by withdrawing immediately and in writing from the MOU, copying the Group on the notice of withdrawal. If the Trust does not cure its breach, the Group reserves its right to pursue all available remedies under Section 3(j) of the Agreement, including specific performance, damages, and reimbursement of the settlement payment to the Trust.

This letter does not contain a complete recitation of all of the facts and circumstances surrounding this matter. Nothing contained herein shall be deemed a waiver of any of the Group's rights, remedies, claims or causes of action, either at law or in equity, all of which are expressly reserved.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Richard F. Ricci

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cc (by email): Rolling Knolls Group
Juan Fajardo, Esq.
Allison Gabala, Esq.